



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

NORTH TEXAS PAIN RECOVERY CENTER

Respondent Name

LM INSURANCE CORP

MFDR Tracking Number

M4-14-2199-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

March 18, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Your denial rationale was based on erroneous conclusions of your peer review doctor, an anesthesiologist. ODG treatment guidelines suggest that screening for work hardening treatment includes a mental health evaluation that considers attitudinal and/or behavioral issues to determine the appropriateness of multidisciplinary care. In this case, as noted by your peer review doctors, a behavioral health assessment was completed and provided. Since your peer review doctor was not a psychologist he may not understand that the examining psychologist takes the test data and combines it with the patient's history, behavioral observations and clinical interview to produce a concise, yet complete behavior health assessment. This is standard practice for a psychologist and was done in this case. The individual test scores are not included in the report because they are but one piece of the puzzle. Again, this report was provided. The ODG treatment guidelines do not require individual test scores to be included in the report. I would even raise the question as to whether your peer review anesthesiologist was qualified to interpret raw or scaled psychological test data. Texas Board of Examiners of Psychologist' Rules of Practice prevent psychologist from releasing raw test data to individuals who do not have proper training in the instruments."

Amount in Dispute: \$8,384.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The charges for the Work Hardening services provided on Sept 30, 2013 through October 25, 2013 for the claimant, [injured employee] were denied according to the determination of a retrospective medical necessity review. A copy of the letter That [sic] was sent to the provider is attached as well as copies of the denial EOBs. Also attached is a copy of 133.308 regarding MDR by Independent Review Organizations which explains the process for filing a medical necessity dispute... The Work Hardening program denial is not appropriate for the Medical Fee Dispute resolution process."

Response Submitted by: Liberty Mutual Insurance

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 30, 2013 through October 25, 2013	97545-WH-CA and 97546-WH-CA	\$8,384.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 sets out the general Medical Dispute Resolution guidelines.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §133.308 sets out the procedure for Medical Dispute Resolution of Medical Necessity Disputes.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - X435 – Based on peer review, further treatment is not recommended.
 - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - X598 – Claim has been re-evaluated based on additional documentation submitted; no additional payment due.

Issues

1. Did the medical fee dispute referenced above contain information/documentation that indicates that there are **unresolved** issues of medical necessity?
2. What is the dispute process for resolving medical necessity denials?
3. What is the dispute sequence?
4. What are the filing requirements after the resolution of a medical necessity denial?
5. Are the disputed services eligible for review by Medical Fee Dispute Resolution?

Findings

1. The medical fee dispute referenced above contains information/documentation that indicates that there are **unresolved** issues of medical necessity for the same service(s) for which there is a medical fee dispute. Review of the EOBs presented by the both the requestor and respondent indicate denial reason code "X435 – Based on peer review, further treatment is not recommended."
2. **Resolution of a Medical Necessity Dispute.** The Division hereby notifies the requestor the appropriate process for resolution of an unresolved issue of medical necessity requires filing for an independent review to be conducted by an IRO (independent review organization) appropriately licensed by the Texas Department of Insurance, pursuant to 28 Texas Administrative Code §133.308. Information applicable to HEALTH CARE PROVIDERS on how to file for an IRO may be found at http://www.tdi.texas.gov/hmo/iro_requests.html under **Health Care Providers or their authorized representatives.**
3. **Notice of Dispute Sequence.** 28 Texas Administrative Code §133.305(b) requires that "If a dispute regarding...medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding...medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and 408.021.
4. The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of 28 Texas Administrative Code §133.307. 28 Texas Administrative Code §133.307 (c)(1)(B) provides that a request for medical fee dispute resolution may be filed not later than 60 days after a requestor has received the final decision, inclusive of all appeals.
5. The division finds that due to the unresolved medical necessity issues, the medical fee dispute request is not eligible for review until a final decision has been issued in accordance with 28 Texas Administrative Code §133.308.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	July 25, 2014
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.